LIBRARY
SUPREME COURT, U.S.

Office Supreme Court, U.S.
FILED
AUG 14 1964
JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 385

IRMA GROSSMAN, *et al.*,
Petitioners,

vs.

JEANNETTE STUBBS & HAROLD RUGG,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEW JERSEY

IRMA GROSSMAN,
pro se,
287 Avenue C,
New York, New York.

TABLE OF CONTENTS

	PAGE
Petition for Writ of Certiorari	1
Citations to Opinions Below	1
Jurisdiction	2
Questions Presented	2
Constitutional Provisions Involved	3
Statement of the Case	4
Reasons for Granting the Writ	8
Conclusion	9

APPENDIX

A. Opinion of the Superior Court Appellate Division	A1
B. Supreme Court of New Jersey Order Denying Certification	A10
C. Exhibit 1 Plaintiffs	A11
D. Exhibit 2 Plaintiffs	A13, 14

Cases Cited

Botta v. *Brunner*, 26 N. J. 82 (1958)	6

Other Authorities Cited

Douglas "Rights of the People"	8
Graves, "American State Government"	8

New Jersey Rules Cited

1:10-12	6
4:8-1	6
1:30-6 (a)	6

IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No.

IRMA GROSSMAN, *et al.*,

Petitioners,

vs.

JEANNETTE STUBBS & HAROLD RUGG,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEW JERSEY

Petitioner prays that a writ of certiorari issue to review the judgment of the Superior Court of New Jersey Appellate Division, entered in the above entitled case of May 8, 1964.

Citations to Opinions Below

The opinion of the Superior Court, Appellate Division is set forth as Appendix A to this petition. The Supreme Court of New Jersey denied certification petition July 3, 1964 without hearing and without giving petitioner an opportunity to answer defendants brief.

Jurisdiction

The denial of Petition for Certification was Filed July 3, 1964. It is set forth as Appendix B to this petition. The jurisdiction of this Court is invoked under The United States Constitution Article III; section 2.

Questions Presented

1. Was plaintiff's constitutional rights under the Due Process Clause of the Fourteenth Amendment violated where:

(a) Plaintiff who is a resident of New York State, having an accident on a public highway in New York State, has suit started in her name unbeknown to her and without her giving consent or permission.

(b) When plaintiff was never advised of her constitutional right of having trial in her own state of residence and where the accident occurred. But was instead coerced into believing she must have trial in the defendants state with imposed substituted counsel.

(c) In the state in which she was coerced into trial the rules of court unbeknown to her would be much different to those that she would be entitled to in her own state.

(d) Between trials when plaintiff realized some of the differences of the states and was still held through her laymen ignorance by coercion and duress in the State of New Jersey.

2. Was article III section 2 violated for the same aforementioned reasons.

3. Was article VII of the amendments of the United States Constitution violated where:

(a) A purported settlement was inflicted upon David Grossman of which he had no knowledge of until almost one year had passed and transcript had been ordered.

Constitutional Provisions Involved

Fourteenth amendment: Section One

"All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction of the equal protection of the laws."

Article III; section two

"The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all cases Affecting Ambassadors, other public Ministers, and Consuls;—to all Cases of admiralty and maritime Jurisdiction—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects."

Article VII of the Amendments

> "In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law."

Statement of the Case

Petitioner a resident of New York State having had an automobile accident June 11, 1961 in New York State in which the petitioner Mrs. Grossman was seriously injured. While Mrs. Grossman was in the hospital being treated for thrombophlebitis plus other injuries, Mr. Grossman, who works in Jersey City, New Jersey, on approximately June 27, 1961 consulted with the firm of Pearlman & Krumholz on procedure for suit. This firm is located across the street from where Mr. Grossman works.

Bernard Pearlman had Mr. Grossman sign a retainer at once, informing him suit must be in New Jersey. This firm of Pearlman & Krumholz started suit for Mrs. Grossman unbeknown to her, without having met her and without her consent. The day trial was scheduled September 17, 1962, the Grossmans' in the court corridor were introduced to Morris F. Pearlman by his brother B. Pearlman, who informed them they must continue with this imposed counsel whom they never knew existed. The Grossmans were never asked to give written consent. Morris F. Pearlman is a member of a completely different firm. The only cause on trial to the Grossmans' knowledge was Mrs. Grossman's injury and Mr. Grossman's Pro Quod. During this trial Mr. Pearlman purportedly settled Mr. Grossman's personal injury suit for $350.

This first trial won on all points by the plaintiff, was set aside on all points because of the low amount awarded. $3500 for Mrs. Grossman. $1000 for Mr. Grossman. Both defendants Stubb & Rugg were held responsible. There was no mention of agency.

In between trials a letter was sent to Mr. Grossman (exhibit 1) which referred to a settlement out of court. Mr. Grossman refused and also refused to give any monies to any of these imposed counsels. These attorneys continued on their own, supposedly at their own expense. All the while the petitioner was pleading to go to New York unbeknown to the plaintiff Morris F. Pearlman had it in his power to continue suit in New York as he has been licensed by the State of New York since 1934. Yet he maliciously withheld petitioners constitutional rights.

Having gone through one trial in New Jersey and seeing that money is not mentioned it could have only been by coercion and duress that petitioner could be forced into a second trial. This is the verdict which the Grossmans wish to have set aside. $8000 Mrs. Grossman. $2000 Mr. Grossman. Agency was declared in this trial so that Rugg was dismissed from obligation.

March 1, 1963 Morris F. Pearlman presented in a lien for his fees. He asked for ⅓ in the motion papers but contrived for and got 40%. A few days before the lien petitioner learning of the ethics committee sent them a letter and petitioner expected someone to come to see that their rights were protected that one day. No one came. Petitioner did not understand most of what was happening. If this man hadn't let us go at this lien we still wouldn't know how to get rid of him. Petitioner appealed to the Superior Court, Appellate Division. There was no motion before the county court to put this matter aside as

petitioner advised Pearlman she wanted to appeal and he made no move besides his own lien.

The Appellate Division of the Superior Court of New Jersey on May 8, 1964 in a per curiam opinion affirmed the judgment for the following reasons: "We need do nothing more than refer to the quotation set out earlier in this opinion where Judge Marini, in commenting on the quality of representation given plaintiffs by Pearlman, said that he 'did an outstanding job in getting the verdict that he did.' We find no basis for plaintiff's present complaint. The judgment is affirmed."

On petition to the Supreme Court of New Jersey petitioner was not given the opportunity to answer the defendants brief as were her rights according to New Jersey Rules 1:10-12. Denial was filed as of July 3, 1964 petitioner mailed her answer July 8, 1964.

The state of New Jersey basis its rule 4:8-1 cf. not mentioning money in court papers or during trial on the *Botta* v. *Brunner*, 26 N.J. 82 (1958) which may be in itself unconstitutional and void. Mrs. Botta was a New Yorker who was entitled to the Federal Courts. There is nothing in the record which states she was aware of this fact.

The issue of the purported settlement of Mr. Grossman was heard by the Appellate Division of the Superior Court of New Jersey on May 4, 1964. They retained jurisdiction and passed the matter back to the Bergen County Court for further testimony. Judge Galanti of the Bergen County Court had the testimony taken May 22, 1964. According to New Jersey Rules 1:30-6(a) the testimony should have been ready "no later than two weeks".

Two weeks to the day Mr. Grossman went to get the transcript and was informed it wasn't ready. A few days

later we received a letter (exhibit 2) informing us the testimony of Mr. & Mrs. Grossman was lost along with the judges findings. The Grossmans were pushed back on the merry-go-round. New testimony will be taken in September 1964. In the lost testimony Mrs. Grossman showed exactly how a purported settlement is pulled off and she really spoke her mind. She had always been since she became pro se hustled out of the various court-rooms without being given an opportunity to speak, or the court limited what she could say.

The quote of Judge Marini which the Appellate court uses to deny Mrs. Grossman's appeal was made at the lien Mr. Pearlman instituted. The Grossmans had no attorney there and was therefore not able to defend themselves. The judge officiating was so prejudiced that he sneered at the petitioner for going against Pearlman. He also allowed an attorney friend of Pearlman's to testify as to the amount Mr. Pearlman deserved. This attorney previously had an office in the same building as Pearlman & Krumholz.

The petitioner has never asked any court in New Jersey to raise the amount which is inadequate for thrombophlebitis of both legs plus other injuries. She has only insisted her constitutional and moral rights be recognized. In the state of New Jersey the rules of New York have been called antiquated. They are good rules for they protect the people. They are the rules petitioner was entitled to and didn't get. The administrative department of the Supreme Court of New Jersey refused to give us any hearing as to the different frauds we can prove Pearlman committed against us. We could not turn to them for aid. We did not know whom to turn to for aid. In the motion for his lien Pearlman states the

difficult time we constantly gave him. He admits we were introduced in the corridor of the court not in front of the assignment judge as he first tried to lie about. He admits a New York attorney spoke to him in between trials at Mrs. Grossman's request. And yet Pearlman knowing how we felt and how we feared him dragged us on. He knows how to get rid of us any time he wanted to. There was no one to help us. More than our money was taken —our wills were taken. Justice Douglas in his book "Rights of the People" states how important the will of man is. He also states that people have fundamental rights. We were treated as if we have no rights.

Reasons for Granting the Writ

I

The questions involved are of paramount importance in the administration of justice. The decision of the Court below will take away from every citizen the right of being entitled to the laws of his resident state. It will relieve every attorney from the responsibility of giving or informing his clients of his full constitutional rights. Attorneys will be able to state half facts and half truths as long as they seemingly keep within some boundary of the laws.

II

The will of man will be a thing of the past.

III

Graves, American State Government, Page 643, Procedure in Civil cases:

> "The counsel for the plaintiff opens the argument by informing the court and the jury of the facts in

> the plaintiff's case, the nature of the evidence he will offer in proof of these contentions, and the damages or redress he demands."

Money is not mentioned in New Jersey while it is in New York. Unless you are an attorney and know the rules of court, reading seemingly authoritative books can be misleading. If the courts will not protect the small common people who will.

IV

The public will be at the mercy of every unscrupulous attorney in the United States.

CONCLUSION

For the foregoing reasons this petition for Writ of Certiorari should be granted.

Respectfully submitted,

IRMA GROSSMAN
pro se

August 12, 1964

APPENDIX

A. Opinion

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

A-64-62

IRMA GROSSMAN and DAVID T. GROSSMAN,
Plaintiffs-Appellants,

vs.

JEANNETTE STUBBS and HAROLD RUGG,
Defendants-Respondents.

Argued May 4, 1964—Decided May 8, 1964.

Mrs. IRMA GROSSMAN and Mr. DAVID T. GROSSMAN, appellants, argued the cause *pro se*.

Mr. EDWARD C. HILLIS argued the cause for respondents (Messrs. Marley, Winkelreid & Hillis, attorneys; Mr. HILLIS on the brief).

PER CURIAM

Plaintiffs ask us to set aside a judgment, entered upon a jury verdict on a retrial of their personal injury, automobile negligence action, awarding $8,000 to Mrs. Grossman and $2,000 to Mr. Grossman *per quod*.

The action arises from an accident which occurred on June 11, 1961 when a car which Grossman was driving

in a southerly direction on the Palisades Interstate Parkway in Tappan, New York, was hit in the rear by an automobile owned by defendant Rugg and operated by defendant Stubbs. Mrs. Grossman and her 2½-year-old daughter were passengers in the Grossman car. Plaintiffs retained the law firm of Pearlman & Krumholz to represent them in suing defendants. The complaint, filed in July 1961, was in three counts. In the first Mrs. Grossman sought damages for her personal injuries, in the second her husband sued for damages *per quod*, and in the third he sought damages for his own personal injuries. The complaint alleged that at the time of the accident defendant Stubbs was the agent or employee of defendant Rugg and was operating the car within the scope of that employment or agency and with the permission of the owner.

During the first trial Grossman allegedly settled his claim for personal injuries for $350. This matter is the subject of a separate appeal (*Docket A* 558-63). That trial, held before County Judge Galanti and a jury, resulted in the entry of a verdict on September 20, 1962 in favor of Mrs. Grossman for $3,500 and Mr. Grossman for $1,000. Plaintiffs were represented by Morris Pearlman, substituted attorney for Pearlman & Krumholz. He successfully moved to set the verdict aside, and a new trial on all issues was ordered. The retrial before County Judge Marini and a jury resulted in a verdict on January 23, 1963 in favor of Mrs. Grossman for $8,000 and Mr. Grossman for $2,000 against defendant Stubbs. A motion to dismiss the complaint as to defendant Rugg, the owner of the car, on the ground of lack of proof of

agency was, without objection, granted by Judge Marini during the course of the trial. There is no appeal from that dismissal. Plaintiffs never applied for a new trial of the second action.

Plaintiffs' appeal *pro se*, the principal ground for appeal being that the second verdict was inadequate and against the weight of the evidence. Other reasons advanced are error in the admission into evidence of photographs of the Rugg automobile, failure to submit to the jury the original of Mrs. Grossman's hospital report, and an alleged violation of *R.R.* 1:12-7 in substituting Morris Pearlman as plaintiffs' trial attorney.

Defendant Stubbs properly observes that since plaintiffs did not move for a new trial after the coming in of the second verdict, they may not now, on appeal, contend that the verdict was against the weight of the evidence. *R.R.* 1:5-3(a) and 2:5. Plaintiffs urge that we relax *R.R.* 1:5-3(a) because they did not know of the provision that "the contention that the verdict was contrary to the weight of the evidence shall not be advanced or entertained unless application for new trial on that ground was first made to the trial court in accordance with the rules and denied."[4] The same request was addressed to this court in *Meisch v. Passaic Terminal & Transportation Co., Inc.*, 82 *N. J. Super.* 353, 362-4 (1964). After reviewing the authorities, we held that the rule would not be relaxed and further stated that assuming this court had the power to relax the strict injunction of *R.R.* 1:5-3(a), "the exercise of such power is neither automatic nor perfunctory. Substantial and persuasive ground therefor would have to be advanced."

So here *R.R.* 1:5-3(a) has been applied with strictness, as the cases cited in *Moich* show. In any event, even were we to assume that we have the power to relax its provisions, we find no substantial reason for its exercise in the circumstances of this case. It is not inappropriate to refer to the trial judge's comment on the fairness of the verdict in the course of a hearing held when counsel was forced to seek court assistance in collecting his fee from plaintiffs. On that occasion the judge said:

> "I think it is a very fair verdict.
>
> The jury could have given you [plaintiffs] $5,000 or they could have given you $15,000 or $20,000. It is up to the jury.
>
> Now, there was a jury of twelve respectable citizens who decided to give you a total of $10,000 and believe me you ought to count yourself as being lucky that you got that amount."

Earlier in the transcript of that hearing we find the following:

> "The Court: Because in chambers I tried to get you two people together and very frankly at the time there was even a question in my mind as to whether or not the plaintiffs were being, well, just a little bit foolish in not taking the $7,500 [the settlement figure offered by defense counsel]. After all there was a jury that only gave $4,500 and when you have $7,500 in your hands, it is not too easy to turn down.
>
> However, of course, the Court simply tried to be a mediator, so to speak, or at least encourage a settlement but word came back to me from Mr. Pearlman that they [plaintiffs] just would not consider any such amount.

Opinion

So it went to trial and the jury brought in a verdict of $8,000 for Mrs. Grossman and $2,000 for Mr. Grossman.

This is not a motion to set aside judgment as being inadequate or anything of that sort but if I may be permitted to say parenthetically, I think considering all the circumstances that Mr. Pearlman did an outstanding job in getting the verdict that he did.

I recall the medical testimony and of course the medical testimony was, as very often it is, susceptible of more than one interpretation and more than one evaluation, and I think the jury hit a pretty good common sense evaluation of the injuries. If any question comes up as to [,] you might say the ability or the proficiency of counsel for the plaintiff, I say that he did as much as anybody could possibly do under the circumstances. He was competent in every respect and presented his case well and the plaintiffs, to put it very bluntly, were well represented." (Italics ours)

We have no doubt whatsoever, in light of the above quotations from the record, that had a motion for a new trial been made it would not have been successful. Plaintiffs would then be faced with the heavy burden of making clear and unequivocal showing of a manifest denial of justice. *Palumbo* v. *Collito*, 42 *N. J. Super.* 436, 455-6 (*App. Div.* 1956), certification denied 23 *N. J.* 139 (1957). Our reading of the record convinces us that plaintiffs would not be able to carry that burden.

We have paid particular attention to the medical testimony adduced on both sides and conclude that it lends no support to plaintiffs' claim that the verdict was inade-

quate. There was the usual conflict of opinion as to the seriousness of Mrs. Grossman's injuries—a matter clearly for the jury to resolve. Damages in a personal injuries case are not gauged by any established graduated scale, and the measure thereof is within reasonable limits left to the sound discretion of the jury. *Andrysishyan* v. *Ballinger*, 61 *N. J. Super.* 386, 393 (1960), certification denied 33 *N. J.* 120 (1960). We will not substitute our judgment for that of the jury unless the verdict is such as to give rise irresistibly to the inference that it was the result of mistake, passion, partiality or prejudice, and by that standard is palpably against the weight of the evidence.

Plaintiff's claimed injuries and complaints were fully exposed to the jury, as was the testimony of her medical experts. Although Mrs. Grossman claims she is permanently afflicted with thrombophlebities and concerned for her life because of the possibility of a blood clot getting into her vascular system, the testimony of the doctors does not indicate that they share a similar anxiety for her future well-being. The jury may properly have regarded Mrs. Grossman's complaints and claimed injuries as exaggerated. Absent a clear showing of error—and we find no such showing in the record—we will not invade the province of the jury in assessing Mrs. Grossman's damages.

Plaintiffs allege that the severity of Mrs. Grossman's injuries was not fully and appropriately called to the attention of the jury. The record does not support this claim, and as Judge Marini remarked at the time of the hearing on the application to fix the fee of their attorneys, the case was well tried and the result quite fair.

Opinion

As for Mr. Grossman's *per quod* claim, the only proof of damages was the $350 bill of the attending physician, Dr. Stromberg, and the hospital bill of $366.50. An award of $2,000 for his expenses of $716.50 and loss of consortium was well within reason.

We therefore see no reason for disturbing the verdict.

Plaintiffs claim that it was error to admit three photographs of the Rugg automobile because they were "inaccurate and bogus." The photographs were introduced in evidence without objection. That should end the matter. Moreover, it appears that defendant was prepared to bring in another witness who would validate the pictures, but did not do so only because counsel for plaintiffs stipulated that they were "the best evidence" as to how the automobile looked after the accident.

Plaintiffs next complain that they were prejudiced by the use of a photostatic record of Mrs. Grossman's hospital record in place of the original. What happened was that after Dr. Stromberg had testified in their behalf he inadvertently took the original hospital record with him when he left the courtroom before the trial had ended. When this record was found missing, counsel by stipulation and without objection substituted a photostatic copy of the hospital record, and the trial proceeded. This was not error, prejudicial or otherwise.

In this connection plaintiffs also argue that the jury should have been provided with a medical dictionary for use in its deliberations. In *Palestroni* v. *Jacobs*, 10 *N. J. Super.* 266 (*App. Div.* 1950), we held that the use by a jury of a dictionary has an obvious potentiality for harmful influence. Its use in that case was held reversible

error. Incidentally, we find nothing in the record where the issue regarding the use of a medical dictionary by a jury was raised.

Finally, plaintiffs complain that Morris Pearlman, who tried the case, had never been selected by them as their attorney but had been irregularly substituted on the day of the first trial for his brother Bernard, who plaintiffs had retained. They rely on *R.R.* 1:12-7, which provides for notice of substitution in the event an attorney dies, ceases to be authorized to practice in this State, or is disbarred or suspended. It obviously had no application in this case.

Plaintiffs say that they engaged Bernard Pearlman, of the firm of Pearlman & Krumholz, to represent them at the first trial, only to find themselves confronted with his brother when they came to court. They allege that they had no choice but to proceed to trial with a lawyer not of their own choosing. However, they did proceed through the first trial with Morris Pearlman, without any objection raised and without any application being made to the court for a postponement and his removal. Assuming that they have reason to complain, this could only have affected the first trial. They apparently were satisfied when Morris Pearlman applied for and obtained a new trial on the ground of an inadequate verdict. They had ample opportunity to obtain other counsel between trials, but made no application for substitution prior to the second trial and chose to proceed with Morris Pearlman. Their present contention has no more to support it than their dissatisfaction with the second verdict. That

verdict resulted in a substantial increase in the award of damages.

We need do nothing more than refer to the quotation set out earlier in this opinion where Judge Marini, in commenting on the quality of representation given plaintiffs by Pearlman, said that he "did an outstanding job in getting the verdict that he did." We find no basis for plaintiffs' present complaint.

The judgment is affirmed.

B. Order Denying Petition

SUPREME COURT OF NEW JERSEY

IRMA GROSSMAN, *et al.*,
Plaintiffs-Petitioners,
vs.
JEANETTE STUBBS, *et al.*,
Defendants-Respondents.

On Petition for Certification

TO APPELLATE DIVISION, SUPERIOR COURT:

A petition for certification having been submitted to this Court, and the Court having considered the same,

It is hereupon Ordered that the petition for certification is denied with costs.

WITNESS the Honorable Joseph Weintraub, Chief Justice, at Trenton on the third day of July 1964.

Filed July 3, 1964
John H. Gildea, Clerk

JOHN H. GILDEA
Clerk of the Supreme Court

C. Plaintiffs' Exhibit 1

Letter from Morris Pearlman, Dated November 1, 1962

Law Offices
Pearlman & Pearlman
MORRIS F. PEARLMAN
NATHAN PEARLMAN

RUTH W. PEARLMAN

SWARTMORE 5-2828

921 Bergen Avenue
Trust Company of New Jersey
Jersey City 6, N. J.

November 1, 1962.

Mr. David T. Grossman
c/o Strauss Stores
658 Newark Avenue
Jersey City, N. J.

Re: Grossman vs. Stubbs, et al.

Dear Mr. Grossman:—

Pursuant to your request, we informed the Court that the case has to be tried after the first of the year. The tentative new date is January 21, 1963.

We have advanced money for medical reports and medical testimony. It is now necessary to have your wife re-examined by Dr. Lieb, Dr. Reilly and by a gynecologist. This means additional payment for medical reports and for the testimony of the doctors who will be called to the re-trial of the case.

To pay the doctors I shall need about $300.00. In order to make it easier for you, I settled your case for your personal injuries, which has nothing at all to do with your wife's case, for $350.00. I have prepared a General Release so that we can get the money for you

Letter from Morris Pearlman, Dated November 1, 1962

now, and you can use the money temporarily to take care of the doctors' expenses.

I told you this when I was at your store, and asked you to sign the Release but you said your wife refused to allow you to sign any papers.

I am not forcing you to sign any Release; if you have the money and want to turn it over to me to use to pay the doctors I will arrange for all of these examinations during the later part of November or early in December.

Please advise me whether you want to sign the Release and get the money from the company, or that you have $300 to advance for the doctors as indicated.

I would appreciate hearing from you upon receipt of this letter.

Very truly yours,

MORRIS F. PEARLMAN

MFP:esl

D. Plaintiffs' Exhibit 2

Letter Dated June 10, 1964

BERGEN COUNTY COURT

Benjamin P. Galanti
Judge

Chambers, Court House
Hackensack, N. J.

June 10, 1964

Mr. and Mrs. David T. Grossman
287 Avenue C
New York, New York

Re. *Grossman* v. *Stubbs*

Dear Sir and Madam:

I am enclosing herewith a copy of the letter I have addressed to Judge Goldman, which is self explanatory.

I have set Monday, September 14, 1964, at 9:30 a.m. for a continued hearing.

Yours very truly,

BENJAMIN P. GALANTI
Benjamin P. Galanti

BPG:ah
Encl.

D. Plaintiffs' Exhibit 2—Continued

Letter from Benjamin P. Galanti, Dated June 10, 1964

BERGEN COUNTY COURT

Benjamin P. Galanti
Judge

Chambers, Court House
Hackensack, N. J.

June 10, 1964

Honorable Sidney Goldman
State House Annex
Trenton, New Jersey

Re. *Grossman* v. *Stubbs*

Dear Judge Goldman:

Pursuant to the Mandate contained in the Opinion by Judge Collester, I had a hearing on May 22, 1964 and the following witnesses testified: Morris Pearlman, John E. Campo, Irma Grossman and David T. Grossman.

The court reporter advised me that she has transcribed the testimony of Morris Pearlman and John E. Campo, but cannot find the notes of the testimony of Irma Grossman and David T. Grossman, nor the notes of my findings of fact and conclusion of law in the matter.

I would like to have disposed of this matter before the end of the regular court session but I find it impossible to schedule it before June 26. I am, therefore, setting this matter down for a re-hearing on Monday, September 14, 1964.

Very truly yours,

BENJAMIN P. GALANTI
Benjamin P. Galanti

BPG:ah

Office Supreme Court, U.S.
FILED
SEP 1 1964
JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 385

IDA GROSSMAN, *et al.*,
Petitioners,

vs.

JEANETTE STUBBS, *et al.*,
Respondents.

RESPONDENTS' BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEW JERSEY

P. JOSEPH MARLEY,
Counsel for Respondents,
570 Broad Street,
Newark 2, New Jersey.

MARLEY, WINKELRIED & HILLIS,
Attorneys for Respondents,
570 Broad Street,
Newark 2, New Jersey.

Adams Press Corp., 11 Commerce Street, Newark, N. J.—Market 3-8611-12

IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 385

IRMA GROSSMAN, *et al.*,

Petitioners,

vs.

JEANETTE STUBBS, *et al.*,

Respondents.

RESPONDENTS' BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEW JERSEY

This is a petition for a writ of *certiorari* to review the action of the Supreme Court of New Jersey in denying petitioner's petition to that court for certification to the Appellate Division of the Superior Court of New Jersey to review the action of the latter court in affirming a judgment of the Bergen County Court.

This case arose out of an automobile negligence action involving petitioner's claim for personal injury and her husband's claim *per quod*. The facts are set forth in the opinion of the Appellate Division of the Superior Court, printed in petitioners Appendix beginning at A1.

1. Petitioner's basic claim is that the verdict in her favor was too low. She asserts that her rights under the Fourteenth Amendment and Articles III and VII of the United States Constitution were violated. Petitioner has failed to specify in what respect her rights were violated other than to claim dissatisfaction with her counsel and her trial attorney. This general objection was not raised by petitioner until the entry of the judgment after the second trial. Petitioners contentions were considered at length by the Appellate Division of the Superior Court and found without merit. The same contentions were urged by petitioner in her petition to the Supreme Court of New Jersey for certification and were again found without merit.

2. The proposed settlement of petitioner's husband's claim for his personal injury referred to in her petition arose out of the same accident. It was no part of petitioner's claim and is presently before the Bergen County Court on remand from the Appellate Division as the result of a separate appeal. Petitioner's husband's proposed settlement should not be included or referred to in this petition.

3. Petitioner's accusations against her counsel, her trial attorney, the Hudson County Ethics Committee, the Administrative Director of the Supreme Court of New Jersey and the trial Judge are utterly false and groundless.

4. This case does not involve any issue arising under the Federal Constitution or the Constitution of New Jersey.

5. Inasmuch as no substantial State or Federal question is involved in this case, it seems superfluous to point out that the constitutional question now urged was never presented to the trial court.

6. Petitioner has failed to set forth any special or important reasons for the granting of a writ of *certiorari*.

7. For the reasons above set forth, it is respectfully submitted that the petition for a writ of *certiorari* should be denied.

P. JOSEPH MARLEY,
Counsel for Respondents.

MARLEY, WINKLERIED & HILLIS,
Attorneys for Respondents.
By: EDWARD C. HILLIS.

LIBRARY
SUPREME COURT, U.S.

Office-Supreme Court, U.S.
FILED
NOV 3 1964
JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 385

IRMA GROSSMAN, ET AL.,
Petitioners,

v.

JEANNETTE STUBBS and HAROLD RUGG,
Respondent.

PETITION FOR REHEARING

IRMA GROSSMAN,
pro se,
287 Avenue C.
New York, New York

IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 385

IRMA GROSSMAN, et al.,

Petitioners,

v.

JEANNETTE STUBBS and HAROLD RUGG,

Respondent.

PETITION FOR REHEARING

Petitioner prays that this Court grant rehearing of its order of October 12, 1964 denying the petition for writ of certiorari on the following grounds:

1. Every branch of government, every large business and in every type of criminal law there is a watch-dog system to see that things are done correctly. Only in civil law there is nothing between the client and the lawyer to see that the client's every right is being protected.

2. Mrs. Grossman's suit was filed in July 1961, without her consent or permission. It was not until October that she was induced to sign papers among which may have been a retainer although she does not know what the papers she signed read. As this Court knows when the majority of the people enter a lawyer's office they are mesmerized. They tiptoe in, hat in hand, respect in their hearts for the authority of the court that these

men represent. And the lawyer does exactly as he pleases with the client, the client never knowing the difference. Case in point is Mr. Grossman who is an example of the average citizen I have spoken of. Today he stands bewildered at what has happened to us saying "But I went into an American courtroom in the United States of America, who knew the different states have different rules on the exact same type of cases". It was not for the Grossmans to know rules and regulations of the 50 States of the Union. There should have been legislation to protect the Grossmans from being devoured by unscrupulous attorneys. It was the attorneys obligation to inform the Grossmans that they had rights to the federal courts as well as New York State courts instead of coercing them into the defendant's state.

3. The majority of the nation who are law abiding citizens deserve better protection than this. It is only once in a person's life that they are involved with the courts. In that one time that they seek justice there every right must be protected.

4. From the State of New Jersey the plaintiffs can expect no aid. For if the Grossmans are right the New Jersey system is wrong. Whether the Grossmans get back their rights which were denied them is of great importance to the welfare of every citizen of the United States because if our rights are snuffed out so are theirs.

The State of New Jersey denied us due process of law first in denying us the right of an ethics hearing as we presented no papers to the ethics committee as we wanted to wait for the hearing we were entitled to. Next in denying us the right to answer the defendant's brief.

5. No amount of money can compensate severe bodily injury but whatever a lawyer gets in a case is found money. He feels no pain. Negligence lawyers deal with the insurance company as a matter of course and must consider the next case coming up. Not every case is a big one and you want to stay on the good side of the insurance company to settle. Who protects the people. No attorney sends away clients if they mean money to him.

For all of these reasons this case should be heard and if it is, legislation will be passed to protect all the people.

Respectfully submitted,

(s) IRMA GROSSMAN
287 Arcadia Ct
New York, New York